IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Mohan Lal Vs. State of Rajasthan

S.B.CR.MISC. PETITION NO.587/2006

DATE OF ORDER :: November 06, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.M.K.Garg, for the petitioner.
Mr.Ashok Upadhyaya, P.P.

BY THE COURT:

This criminal misc. petition under section 482 Cr.P.C. is directed against the order dt. 01.5.2006 passed by the Additional Sessions Judge No.1, Bikaner (for short 'the revisional court' hereinafter), whereby the revision petition filed by the petitioner against the order dt. 24.3.2006 passed by the Judicial Magistrate, Nokha (for short 'the trial court' hereinafter) was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders passed by the trial court as well as by the revisional court.

A crime report was registered against the present petitioner on 27.1.2006 for the offences under sections 307, 353/34 I.P.C. and section 3/25 and 3/27 of the Arms Act. The allegation against the present petitioner is that by using firearms, he made an attempt to commit murder of police party. The police arrested the petitioner, seized the arms and vehicle i.e. jeep used for commission of crime, which has not been registered with the registering authority as such the jeep did not bear the registration number at the time of alleged commission of offence. On seizure of the vehicle, it was revealed that the chasis and engine numbers of the said vehicle were found having been erased, therefore, the owner of the jeep could not be ascertained. The petitioner claiming himself to be the owner of the jeep filed an application under section 457 Cr.P.C. before the trial court seeking custody of the said jeep. That application was dismissed by the trial court on the ground that the petitioner failed to establish that he is owner of the jeep, which was seized by the police. On revision, the revisional court also did not find the petitioner prima facie entitled and dismissed the revision filed by the petitioner.

Before this Court, the petitioner has failed to show the registration number of the said jeep but on the basis of the invoice, he claims to be the owner of the vehicle but in absence

of chasis and engine numbers of the jeep in question, invoice is of no help to the petitioner and more so, the jeep in question seized by the police is involved in the commission of the offence and, therefore, in my view, the trial court was justified in refusing to release the jeep in favour of the present petitioner as also the revisional court was justified in not interfering in the matter. It cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of any court. The jeep is said to have been purchased in the month of August, 2005 according to the learned counsel for the petitioner, yet the petitioner did not get the jeep registered with the registering authority and also the fact that the chasis number and engine number have been erased. This shows that the petitioner has an intention to use the vehicle for committing an offence as also for illegal purpose and, therefore, at this stage, he is not entitled for possession of the vehicle unless the ownership of the vehicle and right to possession is established by evidence.

The petition is, therefore, dismissed. The trial court is directed to decide the main case utmost expeditiously as also to decide the disposal of the property i.e. the jeep in question under section 452 Cr.P.C.

[H.R.PANWAR],J.

m.asif/-